

PT 02-59

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**VICTORY HEALTH
SERVICES, INC.,
APPLICANT**

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

No.	01-PT-0091 (00-49-0711)
P.I.N.S:	06-03-100-017 06-03-100-040 06-03-100-041

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Daniel J. McNamara on behalf of Victory Health Services (hereinafter the “Applicant”); Mr. Joseph B. Chervin, Assistant State Attorney for the County of Lake on behalf of the Lake County Board of Review (the “Board”); Ms. Denise B. McCracken of Hodges, Loizzi, Eisenhammer & Kohn, on behalf of the Intervenor, Antioch Community High School District No. 117 of Lake County; Mr. Scott Puma of Ancel, Glink, Diamond, Bush, DiCianni and Rolek, on behalf of the Intervenor, Lake Villa Community Consolidated School District No. 41;¹ Mr. John Alshuler, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

SYNOPSIS: This proceeding raises the limited issue of whether applicant has sustained its burden of proving that real estate identified by Lake County Parcel Index Numbers 06-03-100-017, 06-03-100-040 and 06-03-100-041 (hereinafter collectively the "subject property") qualifies for exemption from 2000 real estate taxes under Section 15-

¹. The intervening school districts in this matter, Antioch Community High School District No. 117 of Lake County and Lake Villa Community Consolidated School District No. 41, shall hereinafter collectively be referred to as the “Intervenors.”

65(a) of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.*, The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Board on January 15, 2001. (Dept. Group Ex. No. 1). The Board reviewed the Application and recommended to the Department that the requested exemption be denied. (*Id.*). The Department accepted this recommendation by issuing a determination, dated October 25, 2001, which found that applicant failed to submit appropriate documentation to sustain its exemption complaint.

Applicant filed a timely appeal to this determination and, after being afforded the opportunity to engage in discovery with the Intervenor, the Department and the Board, appeared at an evidentiary hearing. All other interested and participating parties, inclusive of the Board, the Intervenor and the Department, also appeared at this hearing. Following a review of the record made at hearing, I recommend that the Department's initial determination in this matter be affirmed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by the admission of Dept Group Ex. No. 1.
2. The Department's position in this matter is that the applicant did not present sufficient evidence to sustain its exemption complaint. *Id.*
3. The record in this case consists entirely of the Department's jurisdictional documents and a series of statements made by attorneys for the participating parties. *Id.*; Tr. pp. 1-13.

4. None of the parties offered any substantive evidence. However, counsel for the applicant stated that: (a) the subject property had been granted a 100% exemption from real estate taxation for the 1998 assessment year; (b) the subject property was, at the Board's behest, put back on the tax rolls for subsequent tax years; and, (c) with the exception of certain independent living quarters, applicant's ownership and use of the subject property have remained unchanged since 1998. *Id.*; Tr. p. 6.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-65(a) of the Property Tax Code (35 **ILCS** 200/1-1 *et seq.*), which states as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity

35 **ILCS** 200/15-65(a).

Like all statutes exempting property from taxation, Section 15-65(a) is to be strictly construed against exemption. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). For this reason, all doubtful factual questions and other debatable matters must be resolved in favor of taxation. *Id.* Therefore, applicant, which bears the burden of proof in all exemption

matters, must satisfy a standard of clear and convincing evidence in order to prove that the relevant statutory exemption applies. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

Applicant did not sustain that burden in this case because it did not introduce any substantive evidence to support its exemption application. Applicant was afforded several opportunities to present appropriate evidence while its application was pending before the Department. Because applicant did not avail itself these opportunities, which included: (a) “repeated” requests for information from the Department’s Property Tax Exemption Section (Dept. Group Ex. No. 1); and, (b) the availability of a discovery process that permitted applicant to exchange proper evidence with all of the other interested parties prior to hearing (86 Ill., Admin. Code, ch. I, §§200.125, 200.130), applicant is not entitled to the exemption that it seeks herein.

Applicant’s counsel nevertheless indicated that the subject property had been granted an exemption from 1998 real estate taxes. (Tr. p. 6). Counsel further stated that, with the exception of certain living quarters, applicant’s ownership and use of the subject property had remained constant since 1998.

The other interested parties did not dispute the 1998 exemption. However, each tax year constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State Bar Ass’n, 89 Ill. App.3d 1005, 1013 (4th Dist. 1980). Thus, applicant may be required to relitigate its entitlement to a property tax exemption on an annual basis, even if ownership and use remain unchanged. *Id*; Jackson Park Yacht Club v. Department of Local Government Affairs, 93 Ill. App.3d 542 (1st Dist. 1981); Fairview Haven v. Department of Revenue, 153 Ill. App.3d 763 (4th Dist. 1987).

Therefore, the 1998 tax exemption is technically irrelevant to this proceeding in the first instance and ultimately non-dispositive in the second. Accordingly, the Department's initial determination in this matter, denying the subject property from 2000 real estate taxes under 35 **ILCS** 200/15-65(a), should be affirmed.

WHEREFORE, for all the above-stated reasons, it is recommended that real estate identified by Lake County Parcel Index Numbers 06-03-100-017, 06-03-100-040 and 06-03-100-041 not be exempt from 2000 real estate taxes.

10/15/02
Date

Alan I. Marcus
Administrative Law Judge